IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINETEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 19419 of 2004

Between:

M. Prasad Rao, S/o. Venkateswarlu,
R/o. Kalluru Village and Mandal, Khammam District.

..... PETITIONER

AND

1 The Dy. Commissioner of Proh and Excise, Warangal Division, Warangal.
2 The Station House Officer, Proh and Excise, PS Sathupalli, Khammam District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue writ or direction preferably writ of direction preferably writ of Mandamus declaring the proceedings of the 1st respondent in Cr.No.1731/2004/PE/B3, dt. 1.9.2004 to the extent of imposing condition of deposit of Rs. 60,000/- by way of FDR/BG for release of the Auto bearing No.AP36V-6596 as illegal, arbitrary, and violative of principles of natural justice and consequently direct the respondents to release the vehicle in favour of the petitioner without insisting the said condition, and pass.

Counsel for the Petitioner: MR.KOWTURU VINAYA KUMAR

Counsel for the Respondent No.: GP FOR PROHIBITION & EXCISE

The Court made the following :

ORDER:

Petitioner's vehicle was seized by the second respondent-Station House Officer, Prohibition and Excise P.S., Sathupalli, Khammam District for violation of Section 34(e) of the A.P.Excise Act,1968. The case of the petitioner is that he was not present at the time of checking by the second respondent. The first respondent ordered for return of the auto, on condition of, producing a Fixed Deposit or a Bank guarantee for a sum of Rs.60,000/-. Questioning the same, the present writ petition is filed.

As the petitioner was not involved in transporting of black jaggery and alum, the condition imposed by the first respondent for production of Fixed Deposit or Bank guarantee worth Rs.60,000/- is onerous, therefore, the condition can be modified.

Hence, the order of first respondent, dated 01.09.2004 is modified with a direction to the petitioner to produce Fixed deposit or Bank guarantee for a sum of Rs.10,000/- (Rupees Ten Thousand only). On such production, the vehicle shall be returned for interim custody of the petitioner and also with a direction to the petitioner to produce the same as and when required by the authority concerned.

Accordingly, the writ petition is disposed of. No order as to costs.

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19-102-004

klp

To

1 The Dy. Commissioner of Proh and Excise, Warangal Division, Warangal.
2 The Station House Officer, Proh and Excise, PS Sathupalli, Khammam

District.

3. 2CCs to G.P.f or Proh. & Excise, High Court buildings,

Hyderabad.(OUT).

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